



NEW MEXICO IMPLEMENTATION GUIDANCE FOR EPA's 2021 MSGP

This implementation guidance was developed as a result of an appeal of the New Mexico Environment Department's ("NMED") Clean Water Act ("CWA") Section 401 certification of the 2021 Multi-Sector General Permit ("MSGP") for stormwater discharges related to industrial activity, issued by the U.S. Environmental Protection Agency ("EPA") and effective March 1, 2021. The parties agree to the following clarifications for MSGP implementation:

1. Regarding NMED Condition 1, per- and polyfluoroalkyl substances ("PFAS") monitoring will be required only for facilities covered by the MSGP that fall within the listed industry categories and that are required to submit a Toxics Release Inventory ("TRI") report for PFAS.
2. Regarding NMED Condition 4, paragraph 3, if a Permittee has previously reported relevant data regarding groundwater or spring water to NMED under a groundwater discharge permit or abatement plan, additional test data is not required to be reported to EPA or NMED. That data should be referenced in the SWPPP as appropriate to substantiate compliance with the MSGP.
3. Regarding NMED Condition 5:
 - a. Concerning the first paragraph, any enforcement regarding 19.26.2.15.B NMAC will be by the State Engineer, and not by EPA or NMED. This condition is intended to notify MSGP holders of the rule, and any noncompliance will not result in loss of coverage under the MSGP.
 - b. Concerning the second paragraph, MSGP holders who are covered by a groundwater discharge permit are not required to submit a new notification under 20.6.2.1201 NMAC.
 - c. Concerning the last paragraph of Condition #5, this condition is not intended to change the point of compliance with surface water quality standards. Because the MSGP is a federal permit, it only covers "waters of the U.S." Therefore, "surface water of the state" means a surface water situated wholly or partly within or bordering upon the state that is also a "water of the U.S." as defined under the Clean Water Act.

Attachment: NMED Surface Water Quality Bureau CWA Section 401 Certification of EPA's Multi-Sector General Permit (August 17, 2020)